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The Honorable Judge Valerie E. Caproni
United States District Court
Southern District of New York
United States Courthouse
40 Foley Square, Room 240
New York, NY 10007-1312

Motion for Leave to File Sur-Reply Re: Strike 3 Holdings, LLC v. John Doe subscriber assigned IP address 24.104.252.172, 18-CV-2648 (VEC) – Defendant’s Motion to Quash Subpoena

Dear Judge Caproni:

The James Law Firm represents Plaintiff in the above captioned matter. Pending before this Court is Defendant’s Motion to Quash Subpoena [CM/ECF 16–18]. On November 26, 2018, Defendant’s counsel sent a letter to the Court enclosing a copy of Judge Lamberth’s recent denial of Plaintiff’s Motion for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference in the District of Columbia. *Strike 3 Holdings, LLC v. Doe*, No. CV 18-1425, 2018 WL 6027046 (D.D.C. Nov. 16, 2018). In that case, Judge Lamberth issued his order without affording Plaintiff the opportunity to brief or respond to any of the issues raised. Indeed, numerous courts throughout the country, including within the Second Circuit have come to opposite conclusions, and Judge Lamberth’s opinion is, respectfully, an outlier.

Plaintiff respectfully encloses two unpublished orders denying defendants’ motions to quash, as well as one published (the same day Defendant file his or her Letter) from this Circuit addressing some of the issues mentioned in Judge Lamberth’s order. Those case are: *Strike 3 Holdings, LLC v. Doe*, No. CV 18-00410-TJM-DEP (N.D.N.Y. October 3, 2018) (McAvoy, J.) [CM/ECF 20]; *Strike 3 Holdings, LLC v. Doe*, No. CV 18-03763-DLI-SJB (E.D.N.Y. Nov. 14, 2018) (Bulsara, J.) [CM/ECF 12]; and *Strike 3 Holdings, LLC v. Doe*, No. CV 18-CV-00571 EAW, 2018 WL 6166873, (W.D.N.Y. Nov. 26, 2018) (Wolford, J.). These orders, along with those cases cited in Plaintiff’s Response, support that Defendant has not raised a valid ground to quash Plaintiff’s third-party subpoena. Since Judge Lamberth’s opinion was entered after the parties briefed the Motion to Quash Subpoena, Plaintiff was unable to address any of these concerns with this Court. Accordingly, Plaintiff respectfully requests leave of Court to file a sur-reply so that it may properly address Defendant’s recent filing and the order ited above.

Respectfully submitted,

By: /s/ Jacqueline M. James
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